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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,013	07/09/2001	Tatsuo Gotoh	P21205	4372

7055 7590 07/15/2004

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EXAMINER

CHOOBIN, BARRY

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/900,013

Applicant(s)

GOTOH

Examiner

Barry Choobin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4-5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings were received on July 9, 2001. These drawings are approved.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on October 12, 2001 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

3. The information disclosure statement (IDS) submitted on October 15, 2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

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351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Kinoshita (US 6,108,920).

As to claim 1, Kinoshita discloses an automatic surveying system comprising: a telescopic optical system (fig.1, element 1); an image pickup device for picking up an image of a graduated face of a level rod (column 3, lines 62-67), to which the telescopic optical system is to be collimated, and converting said image into image data (column 3, lines 62-67); a memory which stores therein recognition data of at least one of a pattern (column 1, lines 60-66), numbers, and scale calibrations (graduation corresponds to scale and furthermore refer to column 1, lines 15-25), provided on the graduated face of the level rod (memory 32, column 4, lines 1-30); and an analyzing device for analyzing and recognizing the picked-up image of said at least one of the pattern, numbers (operating system 3), and scale calibrations of the level rod, based on the image data of the level rod picked up by the image pickup device and the recognition data of said pattern, numbers, and scale calibrations, read from the memory, to obtain a measurement.

As to claim 2, Kinoshita discloses an automatic surveying system according to claim 1 (see claim 1), comprising: a selection device for selecting recognition data

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corresponding to a level rod selected from different kinds of level rods, wherein said analyzing device reads said recognition data, corresponding to the selected level rod, selected by the selection device from the memory (abstract last 3 lines and column 2, lines 54-62).

As to claim 3, Kinoshita discloses an indication device for indicating said measurement obtained by the analyzing device (display 36, corresponds to indication device).

As to claim 4, Kinoshita discloses analyzing device determines the amount of image data of said level rod in the image width direction based on the image data of the level rod, and performs the analysis based on the amount of the image data thus obtained (fig.4).

As to claim 5, Kinoshita discloses analyzing device determines the amount of image data of said at least one of the pattern, numbers, and the scale calibrations in one of the image width direction (see above, combination of claim 1 and claim 4) and the image height direction (column 4, lines 33-40), based on the image data of the level rod, and performs the analysis based on the amount of the image data thus obtained (see claim 1).

As to claim 9, Kinoshita discloses memory device can store said measurement obtained by the analyzing device (image memory 32).

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Allowable Subject Matter

6. Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

CONTACT INFORMATION

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry Choobin whose telephone number is 703-306-5787. The examiner can normally be reached on M-F 7:30 AM to 18:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 703-308-5246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Barry Choobin

July 12, 2004



**BHAVESH M. MEHTA
SUPERVISORY PATENT EXAMINER
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